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SUPREME COURT, U. S.

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1973

No. 73-988

GARY GILBERT CARLSON,

Petitioner,

vs.

THE PEOPLE OF THE STATE OF CALIFORNIA,

Respondent.

MOTION FOR LEAVE TO FILE
PETITION FOR REHEARING
AND
PETITION FOR REHEARING

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Attorney for Petitioner

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1973

No. 73-938

GARY GILBERT CARLSON,

Petitioner,

vs.

THE PEOPLE OF THE STATE OF CALIFORNIA,

Respondent.

MOTION FOR LEAVE TO FILE
PETITION FOR REHEARING
AND
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IN THE SUPREME COURT

OF THE UNITED STATES

GARY GILBERT CARLSON,

Petitioner,

vs. No. 73-988

THE PEOPLE OF THE
STATE OF CALIFORNIA,

Respondent.

MOTION FOR LEAVE TO FILE
PETITION FOR REHEARING
AFTER THE TIME FOR
FILING SAME HAS EXPIRED

COMES NOW THE PETITIONER, GARY GILBERT CARLSON AND PETITIONS THE HONORABLE JUSTICES OF THIS COURT FOR LEAVE TO FILE a Petition for Rehearing beyond the time allowed by Rules of Court.

The last day to file the Petition for Rehearing in this matter was April 12, 1974. On April 8, 1974, petitioner's attorney delivered to the printer in Los Angeles, the

draft of the Petition for Rehearing which was duly printed and mailed by said printer to Washington on April 10, 1974. Through inadvertence of the printer, the same was mailed to the Solicitor General of the U. S. and was received in the Washington Post Office on April 12, 1974, which was the last day to file said Petition. The Petition for Rehearing was not delivered by the Post Office Department to the Solicitor General until April 15, 1974, there being an intervening weekend between the April 12, 1974 receipt by the Post Office in Washington and the Monday date of April 15, 1974. The Solicitor General immediately sent the documents by messenger to the Supreme Court where it was received on April 15, 1974, which information was supplied to this petitioner in the form of a letter from William V. Gullickson, Assistant Clerk of the U. S. Supreme Court.

WHEREFORE, petitioner prays for leave to file his Petition for Rehearing, which is enclosed herewith.

Respectfully submitted,

BRUCE P. WOLFE

IN THE SUPREME COURT

OF THE UNITED STATES

GARY GILBERT CARLSON,

Petitioner,

vs. No. 73-988

THE PEOPLE OF THE
STATE OF CALIFORNIA,

Respondent.

PETITION FOR REHEARING

COMES NOW THE PETITIONER, in the above entitled matter and petitions this Honorable Court for a rehearing from an Order denying a Writ of Certiorari to the Court of Appeals, Second Appellate District, State of California.

JURISDICTION

Petitioner invokes the jurisdiction of this Court pursuant to the United States Court

Rule 58.

QUESTION PRESENTED

In the Response in Opposition to Petition for Writ of Certiorari filed by the Attorney General of the State of California, it is asserted that the challenge to the search warrant raised before this Honorable Court, was not properly raised in that in the courts below petitioner attacked the search warrant on other grounds. This is a novel point and one totally unsupported by law. Petitioner in fact challenged the search raising the Fourth Amendment and the applicable State Constitutional provisions and the fact that petitioner did not specifically mention the Katz case below is of little import, since the question of search is the key question and it has been raised in every stage of the proceedings. All search and seizure questions are founded in the Fourth Amendment and the particular case theory interpreting that Section need not be raised at every stage of the proceedings so long as the basic Fourth Amendment search question is raised. To allow this type of clandestine surveillance into a man's home at night through an apperture in curtains with binoculars is a disgusting over-extension of Governmental intrusion into the privacy of the citizens of this Country.

CONCLUSION

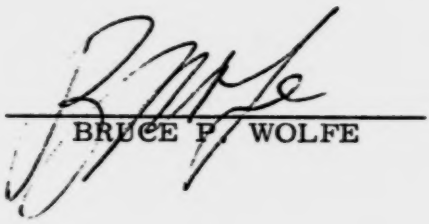
Petitioner requests that this Honorable Court grant a rehearing and grant the Petition for Writ of Certiorari.

Respectfully submitted,

BRUCE P. WOLFE

Attorney for Petitioner

I certify that this Petition is not filed for the purposes of delay and is filed in good faith.



BRUCE P. WOLFE